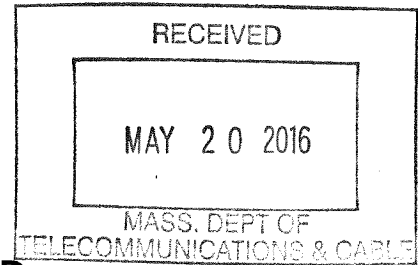


EFFECTIVE DATE: 05-05-16  
EXPIRATION DATE: 05-04-21



**TOWN OF NORTH BROOKFIELD**

**COMMONWEALTH OF MASSACHUSETTS**

**RENEWAL CABLE TELEVISION LICENSE**

**GRANTED TO**

**CHARTER COMMUNICATIONS ENTERTAINMENT I, LLC**

| I/k/a |

**Charter Communications**

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## CHARTER FRANCHISE AGREEMENT

This Franchise Agreement is between the Town of North Brookfield, hereinafter referred to as the "Issuing Authority" and Charter Communications Entertainment I, LLC I/k/a Charter Communications, hereinafter referred to as the "Licensee."

WHEREAS, the Issuing Authority of the Town of North Brookfield, Massachusetts ("Town"), pursuant to chapter 166A of the General Laws of the Commonwealth of Massachusetts, as inserted by Chapter 1103 of the Acts of 1971, as amended, is authorized to grant one or more non-exclusive, renewal licenses to construct, upgrade, operate and maintain a Cable Television System within the Town of North Brookfield and

WHEREAS, the Issuing Authority finds that the Licensee has substantially complied with the material terms of the current Franchise under applicable laws, and that the financial, legal and technical ability of the Licensee appears to be sufficient to provide services, facilities and equipment necessary to meet the future cable-related needs of the community, and

WHEREAS, both parties agree that this statement shall in no way eliminate, reduce or abridge any of the lawful rights and remedies available to the Town or Licensee in the future, and

WHEREAS, having afforded the public adequate notice and opportunity for comment, Issuing Authority desires to enter into this Franchise with the Licensee for the construction and operation of a cable system on the terms set forth herein; and

WHEREAS, the Issuing Authority and Licensee have complied with all federal and State mandated procedural and substantive requirements pertinent to this franchise renewal;

NOW, THEREFORE, the Franchise Authority and Licensee agree as follows:

## 1 Definition of Terms

### 1.1. Terms

For the purpose of this franchise the following terms, phrases, words and their derivations shall have the meaning ascribed to them in the Cable Communications Policy Act of 1984, as amended from time to time (the "Cable Act"), unless otherwise defined herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

1. "Affiliate or Affiliated Person" shall mean another person who owns or controls, is owned or controlled by, or is under common ownership or control with, such person.
2. "Basic Cable Service" shall mean any service tier which includes the retransmission of local television broadcast signals as well as the PEG Channels required by this Renewal License.
3. "Cable Act" shall mean Public Law No. 98-549, 98 Stat. 2179 (1984) (the Cable Communications Policy Act of 1984), as amended, 47 U.S.C. §§ 521, et. seq. by Public Law No. 102-385, 106 Stat. 1460 (1992) (the Cable Television Consumer Protection and Competition Act of 1992 (the "1992 Cable Act")), as further amended by Public Law No. 104-458, 110 Stat. 110 (1996) (the Telecommunications Act of 1996).
4. "Cable Advisory Committee" shall mean the committee appointed by the Issuing Authority for the purpose of advising, researching, and assisting relative to Cable issues.
5. "Cable System," "Cable Service," "Cable Operator" shall be defined as set forth in the Cable Act. "Cable Division" shall mean the Cable Television Division of the Massachusetts Department of Telecommunications and Cable (DTC).
6. "Drop or Cable Drop" shall mean the cable that connects each home or building to the feeder line of the Cable System.
7. "Effective Date" or "Execution Date" shall mean the date when both parties execute the License.
8. "FCC" shall mean the Federal Communications Commission and any successor governmental entity thereto.

9. "Franchise" or "License" shall mean the non-exclusive rights granted pursuant to this franchise to construct and operate a Cable System along the public ways within all or a specified area in the Service Area.

10. "Gross Revenue" means all revenues, as accrued in a manner consistent with Generally Accepted Accounting Principles (GAAP), derived by Licensee and/or its Affiliates from the operation of the Cable System to provide Cable Services in the Town, including, without limitation: the revenues derived from the distribution of any Cable Service over the Cable System; fees and charges collected from Subscribers for Cable Services, including, but not limited to Basic Service, expanded basic and pay cable and premium Cable Services, pay-per-view Cable Services, video-on-demand Cable Services, digital Cable Services; commercial Cable Services, installations, reconnections, change in service (upgrades, downgrades, etc.) and similar fees and charges, fees and charges for the use of channels designated for commercial use (including leased access programming revenues); revenues received from rentals or sales to Subscribers of converters, remote controls, and other Subscriber equipment used to provide Cable Service over the Cable System; revenues that the Licensee or its affiliates receives from home shopping channels for the use of the Cable System as prorated to include such revenue attributable to the Cable System in the Town. Unrecoverable bad debt shall not be included in Gross Revenue, provided, however, that bad debt recoveries shall be included in Gross Revenue during the period collected. Gross Annual Revenues shall also include the gross revenue of any other Person which is derived from or in connection with the operation of the Cable System to the extent that said revenue is derived through a means which has the effect of avoiding payment of Franchise Fees to the Town that would otherwise be paid herein.

11. "Head End" shall mean the electronic control center of the Cable System containing equipment that receives, amplifies, filters, and/or converts incoming signals for distribution over the Cable System.

12. "Installation" shall mean the connection of the Cable System from feeder cable to Subscribers' terminals.

13. "Issuing Authority" shall mean the Board of Selectmen of North Brookfield.

14. "Licensee or Franchisee" shall mean Charter Communications Entertainment I, LLC I/k/a Charter Communications or its lawful successor, transferee or assignee.

15. "License Fee or Franchise Fee" shall mean the payments to be made by the Licensee to the Town of North Brookfield, which shall have the meaning as set forth in Section 622(g) of the Cable Act and M.G.L. Chapter 166A.

16. "PEG" shall mean the acronym for "public, educational and governmental," used in conjunction with Access Channels, support and facilities.



17. "PEG Access Channels" shall mean any channel(s) made available for the presentation of PEG Access Programming.

18. "Person" shall mean an individual, partnership, association, organization, corporation or any lawful successor, transferee or assignee of said individual, partnership, association, organization or corporation.

19. "Public School " shall mean any school at any educational level operated within the Service Area by any public school system, but limited to, elementary, junior/middle high school, and high school.

20. "Public Way or Street" shall include each of the following located within the Service Area: public streets, roadways, highways, bridges, land paths, boulevards, avenues, lanes, alleys, sidewalks, circles, drives, easements, rights-of-way and similar public ways and extensions and additions thereto, including but not limited to public utility easements, dedicated utility strips, or rights-of—way dedicated for compatible uses now or hereafter held by the Issuing Authority in the Service Area, which shall entitle the Licensee to the use thereof for the purpose of installing, operating, repairing and maintaining the Cable System.

21. "Reasonable notice" shall be written notice addressed to the Licensee at its principal office or such other office as the Licensee has designated to the Issuing Authority as the address to which notice should be transmitted to it.

22. "Renewal License" shall mean the non-exclusive Cable Television Renewal License granted to the Licensee by this instrument.

23. "Service Area" shall mean the geographic boundaries of the Franchise Authority, and shall include any additions thereto by annexation or other legal means, subject to the exception in subsection 6.1 hereto.

24. "Signal" shall mean any transmission of electromagnetic or optical energy which carries Programming from one location to another.

25. "State" shall mean the Commonwealth of Massachusetts.

26. "Subscriber" shall mean any person lawfully receiving Cable Service from the Licensee.

27. "Subscriber Network" shall mean the 750 MHz Cable Television System to be owned, operated and maintained by the Licensee, over which Signals can be transmitted to Subscribers.

28. "Town" shall mean the Town of North Brookfield, Massachusetts.

29. "Trunk and Distribution System" shall mean that portion of the Cable System for the delivery of Signals, but not including Drop cables to Subscriber's residences.

## **2. Grant of Franchise**

### **2.1. Grant**

(a) PURSUANT to the authority of Chapter 166A of the General Laws of the Commonwealth of Massachusetts, (M.G.L. c. 166A) as inserted by Chapter 1103 of the Acts of 1971, as amended, and to federal law, the Board of Selectmen as the Issuing Authority of the Town of North Brookfield, Massachusetts ("Town"), shall grant a non-exclusive renewal Cable Television License to Charter Communications Entertainment 1, LLC. ("Licensee") a Limited Liability Corporation established for such purpose, authorizing and permitting said Licensee to operate a Cable Television System within the corporate limits of the Town of North Brookfield, Massachusetts. The Renewal License is granted pursuant to Chapter 166A of the General Laws of the Commonwealth of Massachusetts, as amended, and with all rules and regulations of the FCC, the rules and regulations of Cable Division, the Cable Act, as amended, and all other rules and regulations in force and effect upon the date hereof.

(b) Subject to the terms and conditions herein, the Issuing Authority shall grant to Licensee the right to upgrade, install, operate and maintain a Cable System in, under, over, along, across, through or upon the Public Ways, including streets, lanes, avenues, alleys, sidewalks, bridges, highways and other public places under the jurisdiction of the Town of North Brookfield within the municipal boundaries and subsequent additions thereto, including property over which the Town has an easement or right-of-way, Private Ways and also through public and private easements, which are within the Town, that have been dedicated for compatible uses. In exercising rights pursuant to the Renewal License, Licensee shall not endanger or interfere with the lives of persons or, without prior written permission unlawfully interfere with any installations of the Town, any public utility serving the Town or any other persons permitted to use public ways and places. Grant of the Renewal License does not establish priority for use over other present or future permit holders or the Town's own use of public ways and places. Disputes between Licensee and other parties regarding use of public ways and places shall be resolved in accordance with the North Brookfield Department of Public Works regulations, or governing applicable law or bylaw.

### **2.2 Term**

The Franchise and the rights, privileges and authority hereby granted shall be for a term of five (5) years, commencing on the Effective Date of this Franchise as set forth in subsection 15.11, unless otherwise lawfully terminated in accordance with the terms of this Franchise.

### **2.3 Franchise Requirements for Other Franchise Holders.**

(a) The Renewal License shall not affect the right of the Issuing Authority to grant to any other person a license or right to occupy or use the streets or portions thereof for the construction, installation, operation or maintenance of a Cable Television System within the Town, or the right of the Issuing Authority to permit the use of the public ways and places of the Town for any purpose whatever. Licensee hereby acknowledges the Issuing Authority's right to make such grants and permit such uses. Issuing Authority shall not permit or authorize any person or entity to operate a cable system without a License or franchise, as defined by 47 U.S.C. § 522(9).

(b) The Issuing Authority agrees that any grant of additional franchises, licenses, consents, certificates or other authorizations by the Issuing Authority to any other Person(s) to provide Cable Services, or other services utilizing any system or technology requiring use of the public rights of way, shall require that services be provided for the same territorial area of the Issuing Authority as required by this Franchise and shall be competitively neutral and not be on terms and conditions (including, without limitation, the service area, PEG capital grants and the franchise fee obligations) more favorable or less burdensome to the Person(s) of any such additional franchise, licenses, certificates or other authorizations, than those which are set forth herein. If another provider of Cable Services, video services or other television services utilizing any system or technology requiring use of the public rights of way in the Service Area, is lawfully authorized by any governmental entity or otherwise exempt from obtaining a franchise to provide such services Issuing Authority hereby agrees that, upon a request from Licensee as a matter of law, Licensee's Franchise is modified within thirty (30) days of the granting of such authorization or exemption for the purpose of establishing the same terms and conditions as such Person(s) on a competitively neutral basis. In the event federal, state or local law, rules or regulations are amended, modified or created that have the lawful effect of modifying the terms and conditions of this Franchise during the term or any extension thereof, then the parties shall modify this Franchise in such a way that is mutually agreeable to both parties. Licensee shall have the right to terminate this Franchise in the event Issuing Authority and Licensee fail to mutually agree to modifications to Licensee's Franchise within sixty (60) days from the commencement of such modification negotiations.

## **2.4 Police Powers and Conflicts with Franchise**

By executing the Renewal License, the Licensee acknowledges that its rights are subject to the powers of the Town to adopt and enforce general by-laws necessary to the safety and welfare of the public. The Licensee shall comply with all applicable State and Town laws, by-laws, rules, and regulations governing construction within a Public Way. In the event of any conflict between this Franchise and any Issuing Authority ordinance or regulation, apart from the lawful police powers of the Town, materially contradicting the applicable provisions of this Franchise, this Franchise will prevail. This Franchise is a contract and except as to those changes, which are the result of the Issuing Authority's exercise of its general police power, the Issuing Authority may not take any unilateral action, which materially changes the explicit

mutual promises in this contract. Nor may the Franchisee take any unilateral action, which materially changes the explicit mutual promises in this contract. Any changes to this Franchise must be made in writing signed by the Licensee and the Issuing Authority.

## **2.5 Removal or Abandonment**

Upon termination of this Renewal License, or of any renewal thereof by passage of time or otherwise, the Licensee shall remove all of its supporting structures, poles, transmission and distribution systems, and other appurtenances from the Public Ways and shall restore the areas to their original condition. If such removal is not complete within six (6) months of such termination, the Issuing Authority may deem any property not removed as having been abandoned.

## **2.6 Cable System Franchise Required.**

No Cable System shall be allowed to occupy or use the streets or public rights-of-way of the Service Area or be allowed to operate without a Cable System Franchise and in accordance with state and federal regulations.

## **2.7 Cable Advisory Committee**

The Issuing Authority may appoint a Cable Advisory Committee to advise policy, mediate complaints and monitor ongoing matters concerning the construction, operation, rebuild, maintenance, and administration of the Cable Television System, and other matters related to this License and the operation of the Cable System, subject to the Issuing Authority's ultimate authority as set forth in Chapter 166A of the Massachusetts General Laws, applicable State and Federal regulations relating to this License. The Cable Advisory Committee may deal with consumer complaints; render advice on programming and services offered by Licensee and recommend rules governing use of equipment and access channels by the public. The Committee may also provide and gather information regarding the public's interest in cable access participation and make recommendations for establishing guidelines to encourage the use of the access channels.

### **3. Franchise Renewal**

#### **3.1 Procedures for Renewal**

The Issuing Authority and the Licensee agree that any proceedings undertaken by the Issuing Authority that relate to the renewal of the Licensee's Franchise shall be governed by and comply with the provisions of M.G.L. 166A and Section 626 of the Cable Act or any such successor statute.

## **4. Indemnification and Insurance**

### **4.1 Indemnification**

The Licensee, by acceptance of the Renewal License granted herein, shall, at its sole cost and expense, indemnify, hold harmless and defend the Town, its officials, boards, commissions, committees, agents, and/or employees against all claims, damages, and expenses due to the action(s) of the Licensee, its employees, officers or agents arising out of the construction, installation, maintenance, operation, and/or removal of the Cable System under this Renewal License, including without limitation, property damage or personal injury (including accidental death) that arise out of Licensee's construction, operation, maintenance or removal of the Cable System. In the event any such claim arises, the Town shall tender the defense thereof to the Licensee and the Licensee shall have the right to defend, settle or compromise any claims arising hereunder, and the Town shall reasonably cooperate therein, but the Town shall not be required to incur financial liability in doing so. Notwithstanding the foregoing, the Licensee shall not be obligated to indemnify the Town for any damages or liability resulting from the misconduct or negligence of the Town or for the Town's use of the Cable System, including any PEG channels. The Town shall provide reasonable notice as not to prejudice the Licensee's ability to defend the Issuing Authority or Town.

With respect to Licensee's indemnity obligations set forth herein, Licensee shall, at its own expense, provide the defense of any claims brought against the Town by selecting counsel of Licensee's choice to defend the claim, subject to the consent of the Town, which shall not be unreasonably withheld. Nothing herein shall be deemed to prevent the Town from participating in the defense of any litigation by its own counsel at its own cost and expense, provided however, that after consultation with the Town, Licensee shall have the right to defend, settle or compromise any claim or action arising hereunder, and Licensee shall have the authority to decide the appropriateness and the amount of any such settlement. In the event that the terms of any such proposed settlement includes the release of the Town and the Town does not consent to the terms of any such proposed settlement, Licensee shall not settle the claim or action but its obligation to indemnify the Town shall in no event exceed the amount of such proposed settlement.

### **4.2 Insurance**

A. Licensee shall maintain in full force and effect, at its own cost and expense, during the term of this License, the following Insurance Coverage:

1) Commercial General Liability Insurance in the amount of two Million dollars (\$2,000,000) combined single limit for property damage and bodily injury. Such insurance shall cover the construction, operation and maintenance of the Cable System, and the conduct of Licensee's Cable Service business in the Town;

2) Automobile Liability Insurance in the amount of one million dollars (\$1,000,000) combined single limit for bodily injury and property damage coverage;

3) Workers Compensation Insurance meeting all legal requirements of the Commonwealth of Massachusetts.

4) Employers' Liability Insurance in the following amounts: a) Bodily Injury by Accident: \$100,000; and b) Bodily Injury by Disease: \$100,000 employee limit, \$500,000 policy limit;

5) Umbrella Liability: \$1,000,000 per occurrence,

B. All Liability Insurance shall be written on an "occurrence basis",

C. The coverage amounts set forth above may be met by a combination of underlying and/or umbrella policies so long as in combination the limits equal or exceed those required herein.

D. The Town shall be included as additional insured under each of the insurance policies required in this Article except Workman's Compensation and Employer's Liability.

E. Licensee shall not cancel any required insurance policy without submitting documentation to the Issuing Authority verifying that the Licensee has obtained alternative insurance in conformance with this agreement.

F. Each of the required insurance policies shall be with sureties qualified to do business in the State of Massachusetts, with an A- or better rating for financial condition and financial performance by Best's Key Rating Guide, Property/Casualty Edition.

G. The Licensee shall furnish the Issuing Authority with current certificates of insurance evidencing such coverage.

H. All insurance shall be primary to any insurance coverage the Town may have.

I. Neither this section, nor the provision of insurance or insurance proceeds pursuant to this section, shall limit the liability of the Licensee pursuant to this Renewal License.

#### **4.3 Performance Bond**

Licensee shall submit and maintain throughout the License a bond with corporate surety satisfactory to the Issuing Authority in the amount of twenty thousand dollars



(\$20,000) securing the performance of Licensee's obligations under this Renewal License and as otherwise required by applicable law, including:

- A. The satisfactory operation of the Cable System in accordance with the provisions of M.G.L. c. 166A §§ 5(a), (M), & (n) and this License.
- B. The satisfactory restoration of pavements, sidewalks and other improvements in accordance with M.G.L. c. 166A §§ 5(g) and as approved by the Issuing Authority;
- C. The sightly preservation of trees and vegetation in accordance with M.G.L. c. 166A §§ 5(a) and as approved by the Issuing Authority and Tree Warden;
- D. The indemnification of the Town in accordance with M.G.L. c. 166A §§ 5(b);
- E. The satisfactory removal of the cable system in accordance with M.G.L. c. 166A §§ 5(f) and within six (6) months from the date of lawful notice from the Issuing Authority to so remove the cable system.
- F. The satisfactory compliance with all material terms of this agreement.

Said bond shall be a continuing obligation throughout the entire term of this Renewal License, and thereafter until Licensee has satisfied all of its obligations to the Town that may have arisen from the grant of the Renewal License or from the exercise of any privilege herein granted. In the event that the Town recovers from said surety, Licensee shall take immediate steps to reinstate the performance bond to the appropriate amount required herein. Neither this section, any bond accepted pursuant thereto, nor any damages recovered thereunder shall limit the liability of Licensee under the Renewal License. Recovery by the Town from said surety shall be subject to the provisions of Section 4.1 above. In the event that a performance bond provided pursuant to this Section 4.3 of this Renewal License is not renewed or cancelled, the License shall provide a new performance bond pursuant to this Section 4.3 within thirty (30) days of such failure to renew the performance bond or cancellation.

## **5. Subscriber Rights and Consumer Protection**

### **5.1 Customer Service Hours and Telephone Response Service**

The Licensee shall maintain a publicly listed toll-free telephone number for subscriber access to customer service representatives and its hours of service shall meet or exceed the F.C.C. definition of normal business hours, see 47 Code of Federal Regulations, §. 76.309(c) (4).

### **5.2 Initial Installation and Service Call Procedures in Wired Areas**

Licensee shall provide Cable Services to those residents and businesses whose homes are passed by the Cable System and who have requested service and have paid a deposit for such service, if required, within seven (7) business days of receipt of the request (and any deposit not prohibited by applicable law or regulation) for standard aerial installations, provided that such request for service involves a standard installation. With respect to all installations other than standard installations, Cable Service shall be provided in a reasonable period of time given the circumstances. In arranging appointments for cable installation work or service calls, Licensee shall make its reasonable best efforts to specify to the resident, in advance, whether installation or service will occur in the morning or afternoon hours. Licensee shall make reasonable efforts to install or perform service at convenient times, including times other than 9:00 a.m. to 5:00 p.m. weekdays. Failure to install within the above referenced days, or to make a service call as scheduled, without just cause or the fault of the resident or business representative, shall require Licensee to automatically offer a priority cable installation or service call to the affected resident or business at a time mutually agreeable to Licensee and such affected party, but in no case later than three (3) working days following the initial installation or service call date unless mutually agreed to otherwise by the parties.

### **5.3 Subscriber Solicitation Procedures**

Licensee shall provide all prospective Subscribers with complete, clear and concise written information concerning all services and rates upon solicitation or prior to, or at the time of, installation of Cable Service. Such sales materials shall clearly and conspicuously disclose the price and other information concerning Licensee's lowest cost service tier, prices of optional and premium services, privacy policies, availability and price of equipment and billing practices. Nothing herein shall be otherwise construed to limit, restrict or prevent Licensee from marketing, promoting or offering any services provided hereunder in accordance with applicable law.

#### **5.4 Billing Practices Information and Procedures**

(a) The Licensee shall inform all prospective Subscribers of complete information respecting billing and collection procedures, procedures for ordering changes in termination of service, and refund policies, upon solicitation of service and prior to the consummation of any agreement for installation of service.

(b) All billing practices and procedures will be governed by the procedures set forth in 207 CMR § 10.00, et seq., as may be amended from time to time.

#### **5.5 Notification of Rates and Charges**

The Licensee shall inform the Issuing Authority of all rates and charges of any kind, and all terms or conditions relating thereto. Thereafter, the Licensee shall inform the Issuing Authority of all changes in service, rates and charges of any kind, and all terms and conditions relating thereto in such time and manner as necessary to comply with law and regulations, and to the extent such service charges are under Licensee's control. The Licensee shall notify all Subscribers of any impending rate increases in such time and manner as necessary to comply with law and regulations.

#### **5.6 Disconnection and Termination of Cable Services**

The account of a Subscriber shall be considered delinquent and therefore subject to disconnection only in accordance with Licensee's payment policy and subject to all applicable laws and regulations.

#### **5.7 F.C.C. Customer Service**

(A) The Licensee shall comply with the F.C.C. Customer Service Standards (47 C.F.R. § 76.309.c). The Town may, upon written request, receive a quarterly report of the Licensee's telephone statistics in order to measure the Licensee's compliance with reasonable telephone standards. Should the Town, in writing, request clarification of the Licensee's telephone report, the Licensee shall, upon invitation by the Town, schedule a meeting with the Town to review said report and advise the Town what measures are being employed by the Licensee to meet a reasonable telephone response standard.

(B) Subscribers may purchase remote control devices from other sources than the Licensee.

### **5.8 Employee and Agent Identification Cards**

All of the Licensee's employees and agents entering upon private property, in connection with the construction, installation, maintenance and for operation of the Cable System, including repair and sales personnel, shall be required to carry an employee photo identification card issued by the Licensee.

### **5.9 Protection of Subscribers Privacy**

The Licensee shall fully comply with the privacy rights of Subscribers as contained in Cable Act Section 631 (47 U.S.C. § 551).

### **5.10 Equal Employment Opportunity**

The Licensee shall comply with all laws and regulations with respect to Equal Employment Opportunities.

### **5.11 No Discrimination,**

Licensee shall not deny service, deny access, or otherwise discriminate against Subscribers, channel users, or general citizens on the basis of race, color, religion, national origin, age or sex. Licensee shall comply with all Federal and State Regulations concerning non-discrimination.

### **5.12 Offices, Phone**

Licensee shall maintain a toll-free telephone number and a phone service operated such that complaints and requests for repairs or adjustments may be received at any time.

### **5.13 Notification of Service Procedures and Rates/Charges**

Licensee shall furnish each Subscriber at the time service is installed, written instructions that clearly set forth information regarding the procedures for making inquiries or complaints, including Licensee's name, address and local telephone number. Licensee shall give Subscribers and the Issuing Authority thirty (30) days prior notice of any rate changes, channel lineup or other substantive service changes.

### **5.14 Polling by Cable**

No poll or other upstream response of a Subscriber or user shall be conducted or obtained unless the program of which the upstream response is a part shall contain an explicit disclosure of the nature, purpose and prospective use of the results of the poll or upstream response, unless the program has an informational, educational function which is self-evident. Licensee or its agents shall release the results of upstream response only in the aggregate and without individual references.

#### **5.15 Information with Respect to Viewing Habits and Subscription**

Licensee or its agents or its employees shall not make available to any third party, including the Town, information concerning the viewing habits or subscription package decisions of any individual Subscriber except as required by law.

#### **5.16 Subscriber's Right to Inspect and Verify Information**

Licensee shall make available for inspection by a subscriber at a reasonable time and place all personal Subscriber information that Licensee maintains regarding said Subscriber.

A Subscriber may obtain from Licensee a copy of any or all of their personal Subscriber information regarding him or her maintained by Licensee at no charge. Licensee may require a reasonable fee for making a copy.

A Subscriber may provide corrections and related inquiries regarding any of their personal Subscriber information. Such corrections and related inquiries shall be directed to the Licensee's general manager at the address of the office specified in section 15.3 herein.

Nothing in this Section shall diminish any obligation or rights provided pursuant to applicable federal law or regulations

#### **5.17 Voluntary Disconnection of Service**

Subscribers who request disconnection of Cable Service shall not be billed for service subsequent to such request for termination of service. Licensee shall make a good

faith effort to fully disconnect service as soon as possible after a request to do so by a Subscriber. Any credit due to Subscriber upon full termination of service shall be paid to Subscriber or credited against an outstanding balance within thirty (30) days.

### **5.18 Monitoring**

Neither Licensee or its agents shall tap or monitor, arrange for the tapping or monitoring, or permit any other person to tap or monitor except when required by law, any cable, line, signal, input device, or Subscriber outlet or receiver for any purpose, without the prior written authorization of the affected Subscriber or commercial use; provided, however, that Licensee may conduct system wide or individually addressed "sweeps" solely for the purpose of verifying system integrity, checking for illegal taps, controlling return-path transmission, or billing for pay cable services or pay-per-view. Licensee shall report to the affected parties and all appropriate authorities in writing any instances of monitoring or tapping of the Cable Television System, or any part thereof, of which it has knowledge, whether or not such activity has been authorized by Licensee. Licensee shall not record or retain any information transmitted between a Subscriber or commercial use and any third party, except as required for lawful business purposes. Licensee shall destroy all Subscriber information of a personal nature after a reasonable period of time except as authorized not to do so by the affected Subscriber. Nothing in this Section 5.19 shall diminish any obligations or rights provided to Subscribers pursuant to applicable federal or State law or regulations.

## 6. Service Availability

### 6.1 Service Area

The Licensee shall continue to make Cable Service available to every residential dwelling unit within the Town that currently has Cable Service available. The Licensee shall extend the Cable System and make Cable Service distributed over the Cable System available to all dwelling units of the Town at the Licensee's cost and expense where there is a minimum density of at least twenty-five (25) dwelling units per mile as measured from Licensee's closest existing Cable System plant. (All being pro-rated for distances less than or greater than a mile); provided, however, that (i) all such homes are on the Public Way or a Private Way (ii) such Public Ways or Private Ways can be accessed by Licensee from a Public Way without crossing a Town boundary or if a Town boundary needs to be crossed, access in the other town is available on reasonable terms and conditions; and (iii) to the extent that Licensee shall require easements, attachment to utility poles or other rights not granted herein, then such easements, attachments or other rights are available to Licensee on reasonable terms and conditions. Cable Service shall be made available and fully activated to requesting dwelling units upon request of a prospective Subscriber and no later than ninety (90) days after all necessary permits are obtained. The Licensee may elect to provide Cable Service to areas not meeting the above standard.

Additionally, the Cable System shall also be extended to all road and dwelling units in the Additional Areas that do not meet the minimum twenty-five (25) dwelling unit per mile requirement herein, upon the request of a prospective Subscriber(s) in such area and based upon the following cost calculation: the cost of wiring such area shall be calculated by taking the cost of construction of new plant required to serve the new line extension area divided by the number of dwelling units requesting service in such area, minus the cost of construction of new plant required to serve the new area divided by the minimum number of dwelling units that meets the applicable density requirements specified in Section 6.1. The resulting cost shall equal the per Subscriber contribution relating to the line extension of Cable Service in that particular area of the Town, or

$$\frac{C}{LE} \text{ minus } \frac{C}{P} = SC$$

- C equals the cost of construction of new plant required to serve the new area;
- LE equals the number of dwelling units requesting service in the line extension area;
- P equals the number of dwelling units calculated for the line extension area in accordance with Section 6.1 above (minimum dwelling units as stated in the density requirement multiplied by the mileage of the line extension).
- SC equals the per Subscriber contribution in aid of construction in the line extension area.

## **6.2 Standard and Non-Standard Drops**

A standard aerial installation charge shall be established by the Licensee, which shall apply to any residence located not more than three hundred feet (300') of the Licensee's feeder cable. Longer aerial drops and underground drops greater than one hundred twenty-five feet (125') shall be priced, based on additional actual costs incurred in the installation minus the cost of the initial 300 or 125 feet, as applicable, plus the standard installation charge..

## **6.3 New Development Underground**

In cases of new construction or property development where utilities are to be placed underground, the issuing Authority agrees to require as a condition of issuing a permit for open trenching to any developer or property owner that such developer or property owner give Licensee at least thirty (30) days prior notice of such construction or development, and of the particular dates on which open trenching will be available for Licensee's installation of conduit, pedestals and/or vaults, and laterals to be provided at Licensee's expense. Licensee shall also provide specifications as needed for trenching. Costs of trenching and easements required to bring service to the development shall be borne by the developer or property owner; except that if Licensee fails to install its conduit, pedestals and/or vaults, and laterals within five (5) working days of the date the trenches are available, as designated in the notice given by the developer or property owner, then should the trenches be closed after the five-day period, the cost of new trenching is to be borne by Licensee.

## **6.4 Commercial Establishments**

The Licensee shall make cable services available to any commercial establishments in the Town, which are located on the residential Subscriber Network, subject to the Licensee and each commercial establishment reaching a reasonable agreement regarding the terms and costs of initial installation and service which may or may not



differ from the terms and costs that apply to residential Subscribers. It is herein acknowledged that certain programming services may not be available to commercial establishments, or may be available only upon certain terms and conditions, pursuant to law or the Licensees agreements with its program suppliers.

## **6.5 Leased Access**

Pursuant to the Cable Act, 47 U.S.C. 532 (b) (iii) (B), Licensee shall make available Channel Capacity for commercial use by persons unaffiliated with Licensee.

## **6.6 Inspections**

a) In the event the Issuing Authority reasonably suspects non-compliance with Cable System construction and maintenance terms of this License, the Issuing Authority or its designee(s) shall have the right to inspect all construction, installation and/or upgrade work performed subject to the provisions of this License and to make such tests as it shall deem necessary to ensure compliance with the terms and conditions of this License and all other applicable law. Any such inspection shall be conducted at reasonable times on reasonable notice to Licensee, except that notice may be waived for public safety reasons involving need to inspect street conditions on a time sensitive basis as may be customary for Department of Public Works/Highway Department. Licensee shall have the right to be present at any inspection except where street inspection is for safety purposes and involving customary right-of-way management and/or street restoration inspection as may be customary for Dept. of Public Works/Highway Department. Any such inspection shall not interfere with the Licensee's operations.

b) Any tests or inspections conducted by the Town shall be at the sole cost and expense of the Town and shall have the prior written approval of the Licensee. Unless otherwise mutually agreed upon, the Town shall give at least seven (7) days prior notification to the Licensee of its intention to conduct any testing.

## **7. Construction and Technical Standards**

### **7.1 Compliance with Codes**

Licensee shall maintain a minimum 750 MHz Cable System in accordance with applicable technical standards and standards generally observed by the cable television industry. Licensee shall continue to operate, maintain, upgrade and make available to residents of the Town its existing 750 MHz Cable System. Said Cable System shall continue to maintain the availability of at least seventy-eight (78) video channels in the downstream direction. Licensee shall transmit all Cable System Signals to Subscribers in stereo, if such Signals are furnished to Licensee in stereo. During the term hereof, Licensee shall comply with all applicable FCC statutes, regulations and standards, including those relating to the quality of signals transmitted over the Cable System. Licensee shall construct, upgrade, install, operate, maintain and remove the Cable Television System in conformance with the Massachusetts Electrical Code, the National Electric Code, the National Electrical Safety Code, the National Electrical Code of the National Fire Protection Association, the National Cable Television Association Safety Manual, the rules and regulations of the FCC and the MDTC, building and zoning codes, and land use restrictions as the same exist or may be amended hereafter. Licensee shall resolve any conflicts between said codes in accordance with applicable law and regulations.

### **7.2 Construction Standards and Requirements**

(A) All of the Licensee's plant and equipment, including but not limited to, the antenna site, head-end and distribution system, towers, house connections, structures, poles, wire, cable, coaxial cable, fixtures and appurtenances shall be installed, located, erected, constructed, reconstructed, removed, repaired, maintained and operated in accordance with good engineering practices and performed by experienced maintenance and construction personnel.

### **7.3 Safety**

The Licensee shall at all times employ ordinary care and shall use commonly accepted methods and devices preventing failures and accidents, which are likely to cause damage.

#### **7.4 Network Technical Requirements**

The Cable System shall be operated so that it is capable of continuous twenty-four (24) hour daily operation, capable of meeting or exceeding all applicable federal technical standards, as they may be amended from time to time, and operated in such a manner as to comply with all applicable FCC regulations.

#### **7.5 Performance Monitoring**

Licensee shall test the Cable System consistent with the FCC regulations, including Section § 76.601. The Cable System shall conform to the FCC technical specifications, including 47 CFR 76.05 which are incorporated herein by reference. At all times throughout the Renewal License, the Licensee shall meet all applicable FCC technical standards. The Licensee shall test the Cable System consistent with the FCC regulations and, upon written request of the Issuing Authority, provide copies of such tests and results to the Issuing Authority.

## **8 Conditions on Street Occupancy**

### **8.1 General Conditions**

Licensee shall have the right to utilize existing poles, conduits and other facilities whenever possible, and shall not construct or install any new, different, or additional poles, conduits, or other facilities on public property until the written approval of the Issuing Authority is obtained, which approval shall not be unreasonably withheld.

### **8.2 Underground Construction**

The facilities of the Licensee shall be installed underground in those Service Areas where existing telephone and electric services are both underground at the time of system construction. In areas where either telephone or electric utility facilities are installed aurally at the time of system construction, the Licensee may install its facilities aurally with the understanding that at such time as the existing aerial facilities are required to be placed underground by the Issuing Authority, the Licensee shall likewise place its facilities underground

### **8.3 Permits**

The Issuing Authority shall cooperate with the Licensee in granting any permits required, providing such grant and subsequent construction by the Licensee shall not unduly interfere with the use of such Streets.

### **8.4 System Construction**

All transmission lines, equipment and structures shall be so installed and located as to cause minimum interference with the rights and reasonable convenience of property owners and at all times shall be kept and maintained in a safe, adequate and substantial condition, and in good order and repair. The Licensee shall, at all times employ reasonable care and use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public. Suitable barricades, flags, lights, flares or other devices shall be used at such times and places as are reasonably required for the safety of all members of the public. Any poles or other fixtures placed in any public way by the Licensee shall be placed in such a manner as not to interfere with the usual travel on such public way.

### **8.5 Restoration of Streets**

Licensee shall at its own expense, restore any damage or disturbance caused to a street as a result of its operation, construction, or maintenance of the Cable System to a condition reasonably comparable to the condition of the Street immediately prior to such damage or disturbance to such standard as required of utilities operating within the Town.

Whenever the Licensee excavates, opens or disturbs any pavement, sidewalk or other improvement of any Public Way or place the same shall be replaced and the surface restored in as good condition as before entry as soon as practicable. If the Licensee fails to make such restoration within a reasonable time, the Issuing Authority may fix a reasonable time for such restoration and repairs and shall notify the Licensee in writing of the restoration and repairs required and the time fixed for performance thereof. Upon the failure of the Licensee to comply within the specified time period, the Issuing Authority may cause proper restoration and repairs to be made and the reasonable expense of such work shall be paid by the Licensee upon demand by the Issuing Authority. For the purpose of this section, "reasonable expense" shall provide for restoration to a condition similar to the original condition.

### **8.6 Removal in Emergency**

Whenever in case of fire or other disaster, it becomes necessary in the judgment of the Issuing Authority to remove any of Licensee's facilities, no charge shall be made by the Licensee against the Issuing Authority for restoration and repair, unless such acts amount to gross negligence by the Issuing Authority.

### **8.7 Tree Trimming**

In the installation, maintenance, operation and repair of the poles, cables, wires and all appliances or equipment of the cable system, the Licensee shall avoid damage to trees whether on public or private property in the Town and shall out or otherwise prune such trees only to the least extent necessary. No cutting of trees on Town property shall be done except upon a permit in writing from the Town Department of Public Works or other appropriate municipal official or in accordance with the applicable regulations or requirements of the Town. Licensee shall secure the permission of the property owner prior to reasonable trimming of trees on private property.

### **8.8 Relocation for the Issuing Authority**

The Licensee shall, upon receipt of reasonable advance written notice, to be not less than ten (10) business days, protect, support, temporarily disconnect, relocate, or

remove any property of Licensee when lawfully required by the Issuing Authority pursuant to its police powers. Licensee shall be responsible for any costs associated with these obligations to the same extent all other users of the Issuing Authority rights-of-way are responsible for the costs related to their facilities.

### **8.9 Relocation for a Third Party**

The Licensee shall, on the request of any person holding a lawful permit issued by the Issuing Authority, protect, support, raise, lower, temporarily disconnect, relocate in or remove from the Street as necessary any property of the Licensee, provided that the expense of such is paid by any such person benefiting from the relocation and the Licensee is give reasonable advance written notice to prepare for such changes. The Licensee may require such payment in advance. For purposes of this subsection, "reasonable advance written notice" shall be no less than ten (10) business days in the event of a temporary relocation and no less than one hundred twenty days (120) for a permanent relocation.

### **8.10 Reimbursement of Costs**

If funds are available to any person using the Streets for the purpose of defraying the cost of any of the foregoing, the Issuing Authority shall reimburse the Licensee in the same manner in which other persons affected by the requirement are reimbursed. If the funds are controlled by another governmental entity, the Issuing Authority shall make application for such funds on behalf of the Licensee.

### **8.11 Emergency Use**

Licensee shall comply with all federal and state Emergency Alert System ("EAS"), requirements

### **8.12 Private Property**

The Licensee shall be subject to all laws, by-laws and/or regulations regarding private property in the course of constructing, installing, operating and maintaining the Cable Television System in the Town. The Licensee shall promptly repair or replace all private property, real and personal, damaged or destroyed as a result of the construction, installation, operation or maintenance of the Cable System at its sole cost and expense.

### **8.13 Reservation of Rights**

Acceptance of the terms and conditions of this franchise will not constitute, or be deemed to constitute, a waiver, either expressly or implied, by the Licensee or by the Town of any legal rights which either party may have or may be subsequently determined to have, either by subsequent legislation or court decisions.

### **8.14 Pedestals**

In any cases in which pedestals housing active and passive devices are to be installed, in Town Public Ways or within the Town public lay-out, such equipment must be installed in accordance with applicable Town bylaws and/or regulations. Licensee's technicians shall make best efforts to verify that any service disconnection at a single unit in a multi-unit residence is directed to the correct unit before leaving the job site.

## **9. Rates, Charges and Programming**

### **9.1 Rate Regulation**

Issuing Authority shall have the right to exercise rate regulation to the extent authorized by law, or to refrain from exercising such regulation for any period of time, at the sole discretion of the Issuing Authority. If and when exercising rate regulation, the Issuing Authority shall abide by the terms and conditions set forth by the FCC.

### **9.2 Continuity of Service**

It shall be the right of all Subscribers to continue receiving Cable Service insofar as their financial and other obligations to the Licensee are honored.

### **9.3 Credits for Service Interruption.**

Pursuant to 207 CMR, Licensee shall grant a pro rata credit or rebate to any Subscriber whose entire Cable Service is interrupted for twenty-four (24) or more consecutive hours, if the interruption was not caused by the Subscriber and the Licensee knew or should have known of the service interruption. Pursuant to 207 CMR, if an entire tier or Premium Service of a Subscriber's Cable Service is interrupted for twenty-four (24) or more consecutive hours, the Licensee shall provide a pro rata credit or rebate for each tier or Premium Service interruption as provided in 207 CMR. In order for a Subscriber to receive a pro rata credit or rebate pursuant hereto, the affected Subscriber shall report the outage to the Licensee within thirty (30) days of such outage, unless such Subscriber reporting requirement is preempted by applicable law or regulation, in which case said reporting requirement shall not be required in order to obtain a pro rata credit or rebate. The Licensee shall take reasonable steps to notify Subscribers of the right to a pro rata credit or rebate for such Cable Service interruptions in its general billing information.

### **9.4 Publication and Non-Discrimination**

All rates for residential Cable Service shall be published and non-discriminatory, although discounts may be made available to senior citizens and/or handicapped Subscribers, or through bulk accounts. A written schedule of all rates shall be available upon request during Normal Business Hours at the Licensee's business office. Nothing in this Renewal License shall be construed to prohibit the reduction or waiver of charges in conjunction with promotional campaigns for the purpose of attracting Subscribers.



## 9.5 Senior Citizen Discount

(a) For the term of this License only, for those eligible pursuant to the provisions below, the Senior Citizen or Handicapped Citizen Discount shall be ten percent (10%) off of the price of the Basic Service tier of service, and shall not apply to any other channels or tiers and shall not apply to packages or bundles.

(b) To be eligible, a resident must meet the following criteria: be sixty-five (65) years of age or older, or handicapped and head of household and in each case be receiving one of the following: (i) Supplemental Security Income (SS1); (ii) Medicaid; (iii) Veterans' Services Benefits; (iv) the Town's income-based senior citizen real estate tax abatement, if any, pursuant to applicable law; or (v) any other suitable criteria that the Licensee and the Issuing Authority mutually agree upon.

(c) To establish eligibility, a resident shall bring or mail a photocopy of a valid driver's license, birth certificate or other document definitively establishing age or handicap, plus a photocopy of documentation definitively establishing receipt by the resident at time of application for this discount of any one of the programs listed in (i)-(v) of Section 9.5(b). A resident need establish eligibility for this discount only once to continue receiving it so long as they remain a Subscriber.

(d) The Licensee shall provide easily understood instructions describing how to apply for the discount in this section to the Issuing Authority within sixty (60) days of the Effective Date of this Renewal License.

## **10. Franchise/License Fee**

### **10.1 Amount of Fee**

(a) Pursuant to MGL Chapter 166A §9, the Licensee shall pay to the Town, throughout the term of this Renewal License, a license fee equal to \$0.50 per Subscriber per year, or such higher amount as may in the future be allowed pursuant to law. The number of Subscribers, for purposes of this section, shall be calculated as of December thirty-first of the preceding calendar year.

(b) The Licensee shall not be liable for a total License Fee pursuant to this Renewal License and applicable law in excess of five percent (5%) of its Gross Annual Revenues; provided, however, that said five percent (5%) shall include the PEG Access annual funding (Section 13.4), but shall not include any item or amount not considered a franchise fee by federal law and the Cable Act.

### **10.2 Payment of Fee**

Pursuant to M.G.L. c. 166A, § 9, the license fees shall be paid annually to the Town throughout the term of this Renewal License, not later than March 15th of each year, unless otherwise required by applicable law.

### **10.3 Other Payment Obligations and Exclusions**

(a) The License Fee payments shall be in addition to and shall not constitute an offset or credit against any and all taxes or other fees or charges which the Licensee or any Affiliated Person or party shall be required to pay to the Town, or to any State or federal agency or authority, as required herein or by law; the payment of said taxes, fees or charges shall not constitute a credit or offset against the License Fee payments all of which shall be separate and distinct obligations of the Licensee and each Affiliated Person. The Licensee herein agrees that no such taxes, fees or charges shall be used as offsets or credits against the License Fee payments.

(b) In accordance with Section 622(h) of the Cable Act (47 U.S.C. § 542(h)), nothing in the Cable Act or this Renewal License shall be construed to limit any authority of the Issuing Authority to impose a non-discriminatory tax, fee or other assessment of any kind on any Person (other than the Licensee) with respect to Cable Service or other communications Service provided by such Person over the Cable System for which charges are assessed to Subscribers but not received by the Licensee. For any twelve (12) month period, the fees paid by such Person with respect to any such Cable

Service or any other communications Service shall not exceed five percent (5%) of such Person's gross revenues derived in such period from the provision of such service over the Cable System.

#### **10.4 Accord and Satisfaction**

No acceptance of any payment by the Issuing Authority shall be construed as a release or as an accord and satisfaction of any claim the Issuing Authority may have for additional sums payable as a franchise fee under this License.

#### **10.5 Limitation on Recovery**

In the event that any License payment or recomputed payment is not made on or before the dates specified herein, Licensee shall pay an interest charge, computed from such due date, at the prime interest rate. The period of limitation for recovery of any license fee payable hereunder shall be one (1) year from the date on which payment by the Licensee was due.

#### **10.6 Late Payment**

In the event that the License Fees herein required are not tendered on or before the dates fixed in sections 10.1 and 10.2, interest due on such fees shall accrue from the date at the rate of one percent (1%) above the annual Prime Rate.

## **11. Transfer of Franchise**

### **11.1 Franchise Transfer**

The Franchise granted hereunder shall not be transferred or assigned, without the prior consent of the Issuing Authority, such consent not to be unreasonably withheld or delayed. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of the Licensee in the Franchise or Cable System to secure indebtedness, consistent always with governing law and case interpretation. Within thirty (30) days of receiving an application in accordance with applicable law for transfer, the Issuing Authority shall notify the Licensee in writing of any additional information it reasonably requires to determine the legal, financial and technical qualifications of the transferee. If the Issuing Authority has not taken action on the Licensee's request for transfer within one hundred twenty (120) days or any other time as specified by state or Federal law after receiving such request, consent by the Issuing Authority shall be deemed given.

### **11.2 Transfer to Affiliates**

The foregoing requirements shall not apply to any sale, assignment or transfer to any Person that is owned or controlled by the Licensee, or any Person that owns or controls the Licensee. Licensee shall notify the Issuing Authority thirty (30) days prior to any such sale, assignment or transfer and must comply with all terms and conditions of this License.

## **12. Records, Reporting, Tests and Maps.**

### **12.1 Reports Required**

The Licensee's schedule of charges, contract or application forms for regular Subscriber service, policy regarding the processing of Subscriber complaints, delinquent Subscriber disconnect and reconnect procedures and any other terms and conditions adopted as the Licensee's policy in connection with its Subscribers shall be filed with the Issuing Authority upon request.

### **12.2 Records Required**

The Licensee shall at all times maintain all records according to State and FCC Regulations.

(A). A record of all complaints received regarding interruptions or degradation of Cable Service shall be maintained for one (1) year.

(B) If requested by the Issuing Authority, the Licensee shall provide an accurate Strand Map with legend showing all existing trunk and feeder installations not later than forty-five (45) days after such request. Thereafter, upon written request of the Issuing Authority, the Licensee shall allow the Issuing Authority access to inspect accurate as-built maps of all Cable System plant at the Licensees local premises for review purposes only. Upon being notified of errors on the maps, Licensee shall update all maps to show changes in such installations.

### **12.3 Inspection of Records**

Licensee shall permit any duly authorized representative of the Issuing Authority, upon receipt of advance written notice to examine during normal business hours and on a non-disruptive basis any and all records as is reasonably necessary to ensure Licensee's compliance with the Franchise. Such notice shall specifically reference the subsection of the Franchise that is under review so that the Licensee may organize the necessary books and records for easy access by the Issuing Authority. The Licensee shall not be required by this Renewal License to maintain any books and records for Franchise compliance purposes longer than three (3) years, except for service complaints, which shall be kept for two (2) years as specified above. The Licensee shall not be required to provide Subscriber information in violation of Section 631 of the Cable Act. The Issuing Authority agrees to treat as confidential any books; records or maps that constitute proprietary or confidential information to the extent such are deemed proprietary or confidential by applicable law or regulation and the Licensee make the Issuing Authority aware of such confidentiality. If the Issuing Authority believes it must release any such confidential books or records in the course

of enforcing this Franchise, or for any other reason, it shall advise Licensee in advance so that Licensee may take appropriate steps to protect its interests. Until otherwise ordered by a court or agency of competent jurisdiction, the Issuing Authority agrees that, to the extent permitted by state and federal law, it shall deny access to any of Licensee's books and records marked confidential, as set forth above, to any Person.

#### **12.4 Additional Information**

(A) Licensee shall not unreasonably deny any reasonable requests of the Issuing Authority for further information which may be required to establish the Licensee's compliance with its obligations pursuant to this Renewal License.

(B) Licensee shall file copies of financial forms required to be filed by law, including Forms 200 and 400 with the Issuing Authority.

(C) Licensee shall file with the Issuing Authority a report containing the number of Subscribers in the Town. Said report shall be filed annually with the state Form 500 .

(D) Licensee shall provide to the Town at Licensee's expense, copies of any petitions or communications filed by the Licensee with any state or federal agency or division pertaining to compliance with any material aspect of this License or pertaining to Licensee's compliance with any law or regulation which compliance affects Licensee's operation of the Cable System.

#### **12.5 Quality of Service**

Where evidence exists which, in the reasonable judgment of the Issuing Authority, casts doubt upon the reliability of technical quality of Cable Service(s), the Issuing Authority shall have the right and authority to require Licensee to test, analyze and report on the performance of the Cable System. Licensee shall fully cooperate with the Issuing Authority in performing such testing and shall prepare the results and a report, if requested, within thirty (30) days after notice for the same. Licensee's report shall include:

1. The nature of the complaint or problem which precipitated the special tests;
2. The system component tested;
3. The equipment used and procedures employed in testing;
4. The method, if any, in which complaint/problem was resolved;
5. Any other information pertinent to said tests and analysis which may be required;

6. The corrective action to be taken by the Licensee and the time period for completion of corrective action;

The reporting requirements contained herein shall not diminish any obligation of the Licensee pursuant to this Renewal License or applicable law or regulations.

The Issuing Authority or its designee shall have the right to inspect the plant, equipment, or other Cable System property within the Town upon reasonable notice. Licensee shall fully cooperate in such inspections, and a representative of the Licensee shall be present for any such inspection.

## **12.6 Performance Evaluation Meeting**

The Issuing Authority may at its discretion, but not more than once every two (2) years, hold a performance evaluation session. The performance evaluation session shall be open to the public unless otherwise required pursuant to applicable law or regulations. The purpose of said evaluation shall include, but not be limited to, review of Licensee's compliance to the terms and conditions of this License and to hear comments, suggestions or complaints from the public. The Issuing Authority shall provide Licensee with thirty (30) days advance written notice of such performance evaluation session. Nothing Herein shall limit the Issuing Authority's enforcement authority pursuant to sections 14.1-14.4 below or as otherwise allowed pursuant to applicable law or regulations. Upon reasonable notice from Issuing Authority, representative from Licensee will meet with Cable Advisory Committee to informally discuss issues related to License.

### **13. Community Programming**

#### **13.1 Service to Town Facilities**

Upon written request of the Issuing Authority, the Licensee shall provide one (1) Subscriber Network Drop, one (1) Outlet with Basic Service and one digital box, without charge, to Town facilities as listed in Exhibit A for the length of this Renewal Contract. In addition, upon written request of the Issuing Authority, Licensee shall provide one Subscriber Network Drop, outlet, and Basic and internet service without charge to any municipal facilities added to Exhibit A. The Issuing Authority or its designee shall be responsible for the additional cost of a non-standard installation - an aerial installation in excess of three hundred feet (300') from the Licensee's feeder cable, and any underground installation. - based on additional actual costs incurred in the installation. The Licensee shall continue to provide, install and maintain free basic service to all Municipal buildings being served at the inception of this agreement.

#### **13.2 Limitations on Use**

The Cable Service provided pursuant to this Section shall not be used for commercial purposes and such outlets shall not be located in areas open to the public. The Issuing Authority shall take reasonable precautions to prevent any use of the Licensee's Cable System that results in the inappropriate use thereof or any loss or damage to the Cable System.

#### **13.3 Public, Educational and Government Access Channels**

The Licensee shall make available to the Issuing Authority or its designee(s) sufficient bandwidth for three (3) channels for PEG access-programming use. Use of these channels by the Town or schools and organizations or producers shall be strictly non-commercial in nature. Underwriting of the costs of access program production is permitted provided the sponsor(s) do not advertise on the programs. Underwriter acknowledgments similar to those appearing on public broadcast stations shall be permitted. Channels to be maintained by licensee and signal quality must be maintained within FCC standards.

#### **13.4 Public, Educational and Governmental Access Equipment/ Facilities Fund and Annual Grant**

(a) The Licensee shall, within ninety (90) days after the Execution Date of this Renewal License, provide a one-time cash payment to the Town's special PEG Access account or Public Access corporation, if so designated by the Issuing Authority in writing, in the amount of eighty thousand dollars (\$80,000) to be used to purchase, lease, and/or



improve PEG Access equipment and facilities. This grant shall be considered as an external cost for the purposes of rate regulation and may be passed on to the Subscribers and identified as a separate line item on the subscriber's monthly statement to the extent allowed by applicable law and regulation.

(b) For the term of the Renewal License, the Licensee shall provide an annual payment to the Issuing Authority for PEG Access operations in the amount of thirty thousand dollars (\$30,000) directly to a special PEG Account, not the general fund. The first such annual payment shall be made no later than ninety days (90) after the Execution date of this License. Thereafter the Licensee shall make all subsequent annual cash grants no later than March 31st of each year. In no case shall this payment be counted against the equipment and facilities payment made pursuant to subparagraph (a) of this Section 13.4 above or against any franchise or license fee. This grant shall be considered as an external cost for the purposes of rate regulation and may be passed on to the subscribers and identified as a separate line item on the subscriber's monthly statement to the extent allowed by applicable law and regulation.

c) The Issuing Authority shall prepare an annual report for the preceding calendar year which records how the annual payment for PEG operations was spent, and what amount remained unspent at the end of the calendar year. This report shall be submitted to the Licensee annually upon payment of the annual PEG grant.

### **13.5 Equipment Ownership and Maintenance**

The Town shall own all PEG access equipment and, accordingly, shall be responsible for maintenance, repair and replacement of all such PEG access equipment. Ownership of equipment currently used by the Town and owned by Licensee shall pass to the Town upon the effective date of the License in Section 15.11.

### **13.6 Editorial Control**

H Neither the Licensee nor the Issuing Authority may engage in any editorial control of the content of the access programming on the Cable System, except as otherwise required or permitted by applicable Law. In furtherance thereof, the Town will require program producers to assume individual responsibility for any program-based liability, subject to the Cable Act, FCC requirements or other applicable law. Nothing herein shall be construed to limit the Licensee's right or ability to cablecast local programming at the Licensee's sole discretion.

### **13.7 Access Coordinator**

The Town shall designate a PEG Access Coordinator who shall be responsible for PEG operations, equipment purchase, equipment maintenance and management, production training, and other duties as assigned by the Issuing Authority.

### **13.8 Access Channel Origination**

(a) The Licensee shall provide, maintain and operate a fiber optic PEG Channel origination network. The cost of construction of this network, which shall be completed by Q2 2016, and the multi-channel transmitter/receiver provided by the Licensee for three PEG Access channels to be installed at the PEG Access facility at the Elementary School, shall be borne by the Issuing Authority. This dedicated network shall enable the upstream transmission of programming to the Cable System head end for distribution to Subscribers on the Access channels. The PEG Access origination sites shall be designated as follows: 1) the PEG Access Studio at the Elementary School, 10 New School Drive; 2) the Senior Center, 29 Forest Street; and 3) the Police Station, 55 School Street. Upstream signals from the origination sites shall be aggregated at the PEG Access Studio at the Elementary School before return to head end.

(b) The P.E.G. Channel origination network shall be operated in compliance with the system technical specifications found in FCC Part 76, Subpart K, 76.601 et seq. In the event that there are technical problems with the P.E.G. Channel origination network, the Licensee and the Issuing Authority shall negotiate in good faith a resolution of any such problems, with such negotiation, if any, subject to Section 13.9 (A) above, regarding Licensee's responsibility to provide, maintain, and operate the P.E.G. channel origination network at no charge to the Town or its Access Designee. The Issuing Authority shall have the right to request a performance test of the network should problems persist.

(c) The P.E.G. Channel origination network shall be interconnected with the Subscriber Network in order that signals originating from P.E.G. Channel origination points can be sent upstream and then switched to a downstream Subscriber Network channel. There shall be no charge to the Town for such switching; however, the foregoing does not preclude the Licensee from externalizing costs in accordance with applicable law.

(d) Licensee shall provide and maintain all necessary processing equipment in the Cable System HeadEnd and/or hub site in order to switch upstream channels from the P.E.G. Channel origination network to the designated downstream access channel. Nothing herein shall require the Licensee to provide end-user equipment.

## **14. Enforcement or Revocation**

### **14.1 Determination of Breach**

In the event that the Issuing Authority has reason to believe that the Licensee has defaulted in the performance of any material provision of the Renewal License, except as excused by force majeure, the Issuing Authority shall notify the Licensee in writing, by certified mail, of the provision or provisions of which the Issuing Authority believes Licensee to be in default and the details relating thereto. The Licensee shall have thirty (30) days from the receipt of such notice to:

(a) Respond to the Issuing Authority in writing, contesting the Issuing Authority's assertion of default and providing such information or documentation as may be necessary to support the Licensee's position; or

(b) Cure any such default within thirty (30) days of notice thereof, or, in the event that by nature of the default, such default cannot be cured within such thirty (30) day period, to take reasonable steps to cure said default and diligently continue such efforts until said default is cured. In the event that the Licensee fails to respond to such notice of default, to cure the default or to take reasonable steps to cure the default, the Issuing Authority shall promptly schedule a public hearing no sooner than fourteen (14) days after a determination has been made by the Issuing Authority that Licensee has not appropriately responded, cured, nor taken appropriate measures to attempt to cure the default, and written notice, by certified mail, of such has been delivered to the Licensee. The Licensee shall be provided reasonable opportunity to offer evidence and be heard at such public hearing. If the Issuing Authority determines after public hearing that a continuing state of default exists, and that its cure is unlikely or untimely, Issuing Authority may determine to pursue any of the remedies available to it under law.

### **14.2 Revocation of Renewal License**

In the event that the License fails to comply with any material provision of the Renewal License in any material fashion, the Issuing Authority may revoke the Renewal License granted, subject to the procedures of Law and the Renewal License and M.G.L. c 166A § 11, as it exists on the date hereof.

Upon revocation or termination, Issuing Authority may apply the provision of M.G.L. 166A § 5(f) and Section 627 of the Cable Act, which requires removal of the cable system.

### **14.3 Enforcement**

Subject to applicable federal and state law, in the event the Issuing Authority, after the hearing set forth in subsection 14.1 above, determines that the Licensee is in default of any provision of the Franchise, the Issuing Authority may:

- A. Seek specific performance of any provision, which reasonably lends itself to such remedy, as an alternative to damages; or
- B. Commence an action at law for monetary damages or seek other equitable relief; or
- C. In the case of a default of a material provision of the Franchise, seek to revoke the Franchise itself in accordance with subsection 14.2 above.

No decision by the Issuing Authority or the Town to invoke any remedy under this License or under any statute, law or ordinance shall preclude the availability of injunctive relief or revocation remedies available under applicable laws.

### **14.4 Notice of Legal Action**

Except in an emergency situation, in the event that the Licensee or the Issuing Authority intends to take legal action against the other party for any reason, it shall first (i) give the other party reasonable notice that an action will be filed, (ii) meet with the other party promptly before it files any such action, and (iii) negotiate the issue, which is the subject of any proposed legal action, in good faith with the other party and/or its representative(s).

### **14.5 No Waiver**

(a) Neither failure on the part of the Issuing Authority, the Town or the Licensee to exercise nor delay in exercising, any right in this Renewal License shall operate as a waiver thereof, nor shall either single or partial exercise of any such right preclude any other right, all subject to the conditions and limitations contained in this Renewal License.

(b) The failure of the Issuing Authority or the Town to take any action in the event at any breach by the Licensee shall not be deemed or construed to constitute a waiver of or otherwise affect the right of the Issuing Authority or the Town to take any action permitted by this Renewal License at any other time in the event that such breach has not been cured, or with respect to any other breach by the Licensee.

## **15. Miscellaneous Provisions**

### **15.1 Force Majeure**

If by reason of *force majeure* either party is unable in whole or in part to carry out its obligations hereunder, said party shall not be deemed in violation or default during the continuance of such inability. The term "*force majeure*" as used herein shall mean the following: Acts of God; acts of public enemies; orders of any kind of the government of the United States of America or of the Commonwealth of Massachusetts or any of their departments, agencies, political subdivision, or officials, or any civil or military authority, whether legal or illegal; insurrections; riots; epidemics; landslides; lightening; earthquakes; fires; hurricanes; volcanic activity; storms; floods; washouts; droughts; civil disturbances; explosions; strikes; labor work actions and unavailability of essential Equipment, personnel, services, and/or materials beyond the reasonable control of the Licensee; and the inability of Licensee to obtain, on customary and reasonable terms, easements, permits or licenses for the attachment or placement of the System, or parts thereof, to any pole or underground conduit not owned by Licensee, or any other cause or event not reasonably within the control of the disabled party.

### **15.2 Action of Parties.**

In any action by the Issuing Authority or the Licensee that is mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious and timely manner. Furthermore, in any -instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

### **15.3 Notices**

a) Every notice and/or request to be served upon the Issuing Authority shall be delivered by hand or sent by Federal Express or other express receipted delivery service or certified mail (postage prepaid) to the Board of Selectmen, Town of North Brookfield, Town Hall, 215 North Main Street, North Brookfield, Massachusetts 01535, or such other address as the Issuing Authority may specify in writing to the Licensee. Every notice served upon the Licensee shall be delivered by hand or sent by Federal Express or other express receipted delivery service or certified mail (postage prepaid) to the VP/General Manager, Charter Communications, 301 Barber Avenue, Worcester, Massachusetts 01606, with a copy sent to General Counsel, Charter Communications, Inc., Charter Plaza 12405 Powerscourt Drive, St. Louis, Missouri 63131, or such other address as the Licensee may specify in writing to the Issuing Authority. The delivery shall be equivalent to direct personal notice, direction or order, and shall be deemed to have been given at the time of receipt of such notice.

b) Subject to Section 15.3 (a) above, all required notices shall be in writing.

c) Issuing Authority shall provide written notice within ten (10) days of Issuing Authority's receipt from any other Person(s) of an application or request for a franchise(s), license(s), consent(s), certificate(s), authorization(s), or exemption(s) to provide Cable Services, video services, or other television services utilizing any system or technology requiring use of the public rights of way. Any public hearings to consider such application or request shall have the same notice requirement as outlined in Paragraph 15.4 herein.

#### **15.4 Public Notice**

Minimum public notice of any public meeting relating to this Franchise, unless otherwise provided in this License or by applicable law or regulation, shall be by publication at least twice in a newspaper of general circulation in the area at least fourteen (14) days prior to the meeting and a posting at the administrative buildings of the Issuing Authority.

#### **15.5 Severability**

If any section, subsection, sentence, clause, phrase, or portion of this Franchise is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Franchise.

#### **15.6 Action of Parties**

In any action by the Issuing Authority or the Licensee that is mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

#### **15.7 Administration of Franchise**

This Franchise is a contract and neither party may take any unilateral action that materially changes the explicit mutual promises and covenants contained herein. Any changes, modifications or amendments to this Franchise must be made in writing, signed by the Issuing Authority and the Licensee.

#### **15.8 No Recourse Against the Issuing Authority**

Pursuant to Section 635A (a) of the Cable Act, the Licensee shall have no recourse against the Issuing Authority, the Town and/or its officials, boards, commission,

committees, advisors, designees, agents, and/or its employees other than injunctive relief or declaratory relief, arising from the regulation of cable service or from a decision of approval or disapproval with respect to a grant, renewal, transfer, or amendment of this Renewal License.

### **15.9 Jurisdiction**

All provisions in this License shall apply to the Town, the Licensee and their successors and assigns. Jurisdiction and venue over any dispute, action or suit arising from this Renewal License shall be in any court of appropriate venue and subject matter jurisdiction located and the parties by this instrument subject themselves to the personal jurisdiction of said court for the entry of any such judgment and for the resolution of any dispute, action, or suit.

### **15.10 Entire Agreement**

This Franchise sets forth the entire agreement between the parties respecting the subject matter hereof. All agreements, covenants, representations and warranties, express and implied, oral and written, of the parties with regard to the subject matter hereof are contained herein. No other agreements, covenants, representations or warranties, express or implied, oral or written, have been made by any party to another with respect to the matter of this Franchise. All prior and contemporaneous conversations, negotiations, possible and alleged agreements, representations, covenants and warranties with respect to the subject matter hereof are waived, merged herein and therein and superseded hereby and thereby.

### **15.11 Effective Date**

The effective date of this Franchise shall be the date when both parties execute the Renewal License. This Franchise shall expire on the fifth anniversary of the Effective Date, unless extended by the mutual agreement of the parties.

**Signatures**

Considered and approved this 26<sup>th</sup> day of January, 2016

Town of North Brookfield

Eric M. Henry

Chairman, Board of Selectmen

Ray Swatte

Member, Board of Selectmen

Robert J. Lewis

Member, Board of Selectmen

Accepted this 5 day of May, 2016 subject to applicable federal, state and local law.

Charter Communications Entertainment I, LLC  
I/k/a Charter Communications

Signature Mark E. Brown

Mark E Brown  
Vice President, Corporate Government Affairs



Exhibit A – Town Facilities

Jr./Sr. High School & Elementary School – 10 New School Drive.

LPAC (PEG) Studios /HeadEnd – Basement of Elementary School – 10 New School Drive

N.B. Emergency Management Offices - Basement of Elementary School – 10 New School Drive

Water Dept. Plant and Storage Facility – 14 Bell Road

N.B. Senior Center – 29 Forest St.

Office, Herard Lane Housing for Elderly – 271 North Main St.

Police Headquarters Building – 55 School St.

Fire Dept. Building – 56 School St.

Highway Dept.– 58 School St.

Town Offices – 215 Main St.

Haston Free Library – 161 Main St.

Sewer Dept. – 59 East Brookfield Rd.

Upon written notice to Licensee this list can be changed by the Issuing Authority.